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EXAMINER
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HUANG, CHENG YUAN

ART UNIT	PAPER NUMBER
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1794

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/553,022	<b>Applicant(s)</b> ANGELA ET AL.	
	<b>Examiner</b> CHENG HUANG	<b>Art Unit</b> 1794	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 and 15 is/are pending in the application.  
     4a) Of the above claim(s) 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20051011</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-13 and 15, drawn to a biaxially oriented polypropylene film.

Group II, claim(s) 14, drawn to a process of making a biaxially oriented polypropylene film.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The special technical feature of gravure printing is not commonly shared between the inventions of Group I and of Group II.

3. During a telephone conversation with Ashley I. Pezzner on 11 February 2009 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-13 and 15. Affirmation of this election must be made by applicant in replying to this Office action. Claim 14 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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5. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

6. In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained.

Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-13 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Regarding claim 1, it is unclear as to whether the cold sealing adhesive coating is a third layer that is separate from the cover layer or if the cold sealing adhesive coating may be the cover layer. For the purposes of examination, the cold sealing adhesive layer is interpreted to be either the cover layer itself or a coating on the cover layer.

10. The term "cold sealing adhesive" in claim 1 is a relative term which renders the claim indefinite. The term "cold sealing adhesive" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For the purposes of examination, the term "cold sealing adhesive" is interpreted to encompass any composition capable of sealing at low temperatures.

11. Claim 10 recites the limitation "the release layer" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim since the claim directly depends upon claim 1, which does not recite a release layer. For the purposes of examination, claim 10 is regarded as being dependent upon claim 9 where the claimed release layer is first mentioned.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-6, 8-13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Murschall et al. (U.S. Patent No. 5,436,041).

14. Regarding claim 1, Murschall et al. teaches a multilayered transparent biaxially oriented polypropylene film (col. 1, lines 9-10, col. 3, lines 46-48) made of a base layer (base layer B) and at least one first cover layer (top layer A), characterized in that the base layer has a hydrocarbon resin (col. 9, lines 4-5) and the cover layer has a cold sealing adhesive coating on the outer surface of the cover layer (col. 4, lines 42-43). With consideration of the 35 U.S.C. 112 rejections made above, the term "cold sealing adhesive" is deemed to be taught since Muschall et al. discloses top layer A is capable of sealing at low temperatures (col. 4, lines 42-43). Furthermore, top layer A of Muschall et al. is considered to be the cover layer and cold sealing adhesive layer since a cover layer that is a cold sealing adhesive coating would have a cold sealing adhesive coating on its outer surface.

15. Regarding claim 2, Murschall et al. teaches the polypropylene film characterized in that the base layer contains an isotactic polypropylene (col. 3, line 52) having a melting point of about 160°C to about 170°C, (col. 3, line 51) which overlaps the claimed range of 155-165°C.

16. Regarding claim 3, Murschall et al. teaches the polypropylene film characterized in that the base layer contains the hydrocarbon resin (col. 9, lines 4-5) in a quantity of about 3 to about

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15 weight-percent (col. 9, lines 9-12) , which overlaps the claimed range of 0.5 to 20 weight-percent, in relation to the weight of the base layer.

17. Regarding claim 4, Murschall et al. teaches the polypropylene film characterized in that the hydrocarbon resin contains petroleum resins, styrene resins, cyclopentadiene resins and terpene resins (col. 9, lines 4-5), which encompasses at least one of the claimed polymers including cyclopentadiene polymer.

18. Regarding claim 5, Murschall et al. teaches the polypropylene film characterized in that the hydrocarbon resin has a softening point of about 60°C to about 180°C (col. 8, lines 66-68), which encompasses the claimed range of 100 to 160°C.

19. Regarding claim 6, Murschall et al. teaches the polypropylene film characterized in that the first cover layer is synthesized from isotactic propylene homopolymers (col. 3, line 52), propylene copolymers, or propylene terpolymers or mixtures of these polymers (col. 4, lines 42-44). Murschall et al. also teaches the propylene copolymers and terpolymers having a propylene content of at about 50 to about 90 weight-percent (col. 5, lines 26-27), which encompasses the claimed range of at least 80 weight-percent in relation to the polymer.

20. Regarding claim 8, Murschall et al. teaches the polypropylene film characterized in that a second cover layer (top layer C) made of polyolefinic polymers (col. 6, lines 1-14) is applied to the diametrically opposite surface of the base layer (col. 2, lines 49-51).

21. Regarding claim 9, Murschall et al. teaches the polypropylene film characterized in that a release layer (col. 7, lines 11-13) is applied to the surface diametrically opposite the first cover layer as the outer layer (col. 3, lines 14-15), whose surface is deemed to have a low adhesion in

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relation to cold sealing coatings since it is disclosed as being “non-cohesive” (col. 7, lines 11-13).

22. Regarding claim 10, Murschall et al. teaches the polypropylene film characterized in that the release layer is a release film (col. 7, lines 11-13).

23. Regarding claim 11, Murschall et al. teaches the polypropylene film characterized in that the base layer contains an antistatic agent (col. 7, lines 57-62).

24. Regarding claim 12, Murschall et al. teaches the polypropylene film characterized in that all layers of the film contain neutralization agents and stabilizers (col. 7, lines 57-63).

25. Regarding claim 13, Murschall et al. teaches the polypropylene film characterized in that the first cover layer contains antiblocking agent (col. 7, lines 57-62).

26. Regarding claim 15, Murschall et al. teaches the polypropylene film wherein said antistatic agent is tertiary aliphatic amine (col. 8, lines 3-7).

27. Claims 1-3, 6-11, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilkie et al. (U.S. Patent No. 5,482,780) and as evidenced by Cheremisinoff (Handbook of Engineering Polymeric Materials).

28. Regarding claim 1, Wilkie et al. teaches a multilayered biaxially oriented polypropylene film (col. 5, lines 1-7) made of a base layer (the core layer) and at least one first cover layer (the cold seal receptive layer) characterized in that the base layer has a hydrocarbon resin (col. 3, line 65-col. 4, line 2) and the cover layer has a cold sealing adhesive coating (cold seal composition, col. 1, lines 22-25) on the outer surface of the cover layer (col. 3, lines 2-4). Furthermore, while Wilkie et al. fails to explicitly state the transparency of the film, besides it having “excellent



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optics” (col. 2, line 30), the film of Wilkie et al. is reasonably expected to be highly transparent since the invention of Wilkie et al. comprises similar, if not identical, materials to those of the instantly claimed invention including a base layer comprising biaxially oriented isotactic polypropylene and hydrocarbon (alpha-olefin polymers) resin (col. 3, line 65-col. 4, line 2, col 5, line 7) and a cover layer comprising propylene copolymer (col. 4, lines 18-21).

29. Regarding claim 2, Wilkie et al. teaches the polypropylene film characterized in that the base layer contains an isotactic polypropylene (col. 3, lines 65-66). Wilkie et al. does not explicitly state the melting point of the isotactic polypropylene, however, it is inherent that the melting point of isotactic polypropylene is 155-165°C, as evidenced by Cheremisinoff (page 162, Table 13) whose melting point value of conventional isotactic polypropylene is 162°C, thus anticipating the claimed range.

30. Regarding claim 3, Wilkie et al. teaches the polypropylene film characterized in that the base layer contains the hydrocarbon resin (alpha-olefin polymers, col. 4, lines 1-2) in a quantity of less than 10 weight-percent (col. 3, line 68), which overlaps the claimed range of 0.5 to 20 weight-percent, in relation to the weight of the base layer.

31. Regarding claim 6, Wilkie et al. teaches the polypropylene film characterized in that the first cover layer (the cold seal receptive layer) is synthesized from propylene copolymers (col. 4, lines 19-21). Wilkie et al. also teaches the propylene copolymers having a propylene content of about 92 to 98 weight-percent, which falls within the claimed at least 80 weight-percent in relation to the polymer.

32. Regarding claim 7, Wilkie et al. teaches the polypropylene film characterized in that the surface of the first cover layer is pretreated using corona or flame (col. 4, lines 27-31).

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33. Regarding claim 8, Wilkie et al. teaches the polypropylene film characterized in that a second cover layer (the cold release layer) made of polyolefinic polymers (ethylene and propylene, col. 3, line 22) is applied to the diametrically opposite surface of the base layer (col. 2, line 66-col. 3, line 1).

34. Regarding claim 9, Wilkie et al. teaches the polypropylene film characterized in that a release layer (the cold release layer) is applied to the surface diametrically opposite the first cover layer as the outer layer (col. 2, line 66-col. 3, line 1), whose surface demonstrates "good to excellent" cold seal release (C.S.R.) (col. 7, lines 45-46) which is a teaching of the surface of the release layer being of low adhesion in relation to cold sealing coatings.

35. Regarding claim 10, Wilkie et al. teaches the polypropylene film characterized in that the release layer (the cold release layer) is a release film and a second coextruded cover layer (col. 5, line 37).

36. Regarding claim 11, Wilkie et al. teaches the polypropylene film characterized in that the base layer contains an antistatic agent (col. 3, lines 52-57).

37. Regarding claim 13, Wilkie et al. teaches the polypropylene film characterized in that the first cover layer contains antiblocking agent (col. 3, lines 52-57).

### ***Conclusion***

38. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHENG YUAN HUANG whose telephone number is (571) 270-7387. The examiner can normally be reached on Monday-Thursday from 8 AM to 4 PM.

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39. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer McNeil, can be reached at 571-272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

40. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. H./

Cheng Yuan Huang

Examiner, Art Unit 1794

February 24, 2009

/JENNIFER MCNEIL/

Supervisory Patent Examiner, Art Unit 1794